IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8854 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

NITINKUMAR BABUBHAI PATEL

Versus

REGIONAL PASSPORT OFFICE

Appearance:

1. Special Civil Application No. 8854 of 2003

MR HR PRAJAPATI for Petitioner No. 1

MR DN PATEL for Respondent No. 1

MR GORI for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 16/09/2003

ORAL JUDGEMENT

1. RULE. Service of rule is waived by learned advocate Shri N.J. Shah for Senior Standing Counsel Shri D.N. Patel for respondent no.1 and learned A.G.P. Shri Gori for respondent no.2. At the request of the learned advocates, the petition is finally heard today.

2. The petitioner has approached this Court with a prayer that the respondent be directed to record his correct date of birth in his passport and his correct name be also recorded in the certificate of birth which has been issued to him and he has also alternatively prayed that as his correct name has not been registered in the register maintained under the Register of Births and Deaths Act, 1969 (hereinafter referred to as the "Act"), the Registrar appointed under the said act be directed to record the correct name of the petitioner in the Register of Births and Deaths.

3. Learned advocate Shri N.J.Shah appearing for respondent no.1 has submitted that normally no change is effected in a passport, unless the passport authority is satisfied that a mistake has been committed while recording a particular entry in the passport. It has been submitted by him that if the petitioner approaches the passport authority with evidence to the effect that a mistake had been committed while recording a particular entry in the passport and if the passport authority is satisfied upon perusal of the evidence adduced by the petitioner that a mistake had been committed while recording a particular entry in the passport, the respondent authority would look into the evidence which might be adduced by the petitioner and do the needful after perusal of the relevant record which might be produced by the petitioner.

4. So far as the averment which pertains to change of name is concerned, learned A.G.P. Shri Gori has submitted that it is for the registrar appointed under the provisions of the Act to do the needful for making a change in the Register of Births and Deaths. It has been submitted by him that in the instant case he is representing the Mamlatdar, Anand and as he is not the authority to make any change in the Register of Births and Deaths maintained under the Act, respondent no.2 shall not be in a position to do anything in the matter.

5. In the circumstances, learned advocate Shri H.R. Prajapati appearing for the petitioner has submitted that the petitioner would approach the Registrar appointed under the Act with a request to make appropriate changes in the register maintained by him under the provisions of

the Act. As the Registrar is not a party respondent in the present proceedings, I am sure that as and when the petitioner would approach the said authority, the said authority would do the needful in accordance with law and while doing so, he shall also look into the judgement delivered by this Court in the case of DR. SUKUMAR MEHTA Vs. DISTRICT REGISTRAR, BIRTHS & DEATHS reported in 1993(1) GLR 93.

6. As the respondent authority will have to undertake the exercise of scrutinizing the application, appreciating the evidence, etc. afresh because of the default committed by the petitioner in not placing correct facts at an earlier point of time, a sum of Rs. 5,000/- is ordered to be paid by the petitioner to the respondent authority by way of costs.

7. In view of the above observation made by this Court, learned advocate Shri H.R. Prajapati seeks permission to withdraw the petition. Permission for withdrawal of the petition is granted. The petition stands disposed of as withdrawn. Rule is discharged. Direct service is permitted.

(A.R. DAVE,J.)

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